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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,127	07/08/2003	Robert J. Falster	MEMC TP-01-2450 (3009)	8157
321	7590	01/06/2005	EXAMINER HITESHEW, FELISA CARLA	
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			ART UNIT	PAPER NUMBER
1765				
DATE MAILED: 01/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/615,127	FALSTER ET AL.
	Examiner	Art Unit
	Felisa C. Hiteshew	1765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 20 and 21 is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) 7-19 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 10/615,127.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

***Information Disclosure Statement***

The PTOL 1449 has been received, reviewed and considered.

***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In Figure 1, item #11. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mule'Stagno, et al.

Mule'Stagno, et al. teaches a process for the preparation of a single crystal silicon wafer having a controlled oxygen precipitation behavior. The process comprises selecting a wafer which is sliced form a single crystal silicon grown by the Czochralski method comprising a front surface, a back surface, a central plane between the front and back surfaces, a front surface layer which comprises the region of the wafer between the front surface and a distance, D, measured from the front surface and toward the central plane, a bulk layer which comprises the region of the wafer between the central plane and the front surface layer. The process also comprises subjecting the wafer to a heat-treatment to form crystal lattice vacancies in the front surface and bulk layers. The heat-treated wafer is cooled at a rate that produces a vacancy concentration profile in the wafer wherein the peak density of vacancies is in the bulk layer with the concentration generally decreasing from the location of the peak density in the direction of the front surface of the wafer and the difference in the concentration of vacancies in the front surface and bulk layers is such that stabilized oxygen

precipitate nucleation centers do not form in the front surface layer and stabilized oxygen precipitate nucleation centers are formed in the bulk layer with the concentration of the stabilized oxygen precipitate nucleation centers in the bulk layer being primarily dependent upon the concentration of vacancies. (See column 4, lines 29-61).

Mule'Stagno, et al. also teaches that the wafer is cooled from a first temperature T1, to a second temperature T2 at a rate, R. The stabilized oxygen precipitation nucleation centers being incapable of are dissolved at a temperature less than about 1150°C, but capable of being dissolved at a temperature between about 1150°C and about 1300°C, T1 is between about 1150°C and about 1300°C, T%2 is a temperature at which the crystal lattice vacancies are relatively immobile in silicon, and R is at least about 5°C per second, etc. (See column 2, lines 45-68).

The difference being that Mule'Stagno, et al. does not exactly teach an annealing temperature Ta to an upper nucleation temperature Tu. However, in the absence of unobvious results, it would have been obvious to one of ordinary skill in the art to modify and optimize the process parameter limitation of Mule'Stagno, et al. in order to ensure proper orientation. The motivation being that Mule'Stagno, et al. T1 and T2 temperature ranges encompass the annealing and upper nucleation temperature ranges of the instant invention.

A reference is good not only for what it teaches by direct anticipation but also for what one of ordinary skill might reasonably infer from the teachings. *In re Opprect* 12 USPQ 2d 1235, 1236 (CAFC 1989); *In re Bode* 193 USPQ 12; *In re Lamberti* 192 USPQ 278; *In re Bozek* 163 USPQ 545, 549 (CCPA 1969); *In re Van Mater* 144 USPQ

421; In re Jacoby 135 USPQ 317; In re LeGrice 133 USPQ 365; In re Preda 159 USPQ 342 (CCPA 1968).

Expected beneficial results are evidence of obviousness, just as unexpected beneficial results are evidence of unobviousness. In re Novak 16 USPQ 2d 2041 (Fed. Cir., BPAI 1989); In re Hoffman 194 USPQ 126 (CCPA 1977); In re Skoll 187 USPQ 481 (CCPA 1975); In re Skoner 186 USPQ 80 (CCPA 1975); In re Garshon 152 USPQ 602 (CCPA 1967).

***Allowable Subject Matter***

5. Claims 20 and 21 are allowed.
6. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).
7. Claims 7-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felisa Hiteshew whose telephone number is (571) 272-1463. The examiner can normally be reached on Mondays through Thursdays from 5:30 AM to 3:00 PM. and second Fridays from 5:30 AM to 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton, can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is (571)

273-1463.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866- 217-9197 (toll-free).

  
FELISA HITESHEW  
PRIMARY EXAMINER  
1765